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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,175	01/09/2001	Pang-Chia Lu	10234-2	1308

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EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/757,175

Applicant(s)

LU ET AL.

Examiner

Victor S Chang

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached NOTE.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1,3-5,29,31-36 and 38.

Claim(s) withdrawn from consideration: 8-27 and 37.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

NOTE

1. Applicants' argument "modifying Park by reference to Wilkie is contrary to, and destroys, Park's disclosure of its core layer. The inventors of Park were specifically aware of void-free layer technology and opacifying agents, such as TiO_2 pigment. Park's skin layers are disclosed as being void-free ... Nevertheless, the Park inventors specifically choose to make their core layer a voided core layer. Therefore, it would be completely contrary to, and destroy, Park's disclosure to modify its core layer by making it void-free." (Remarks, page 9, second paragraph) has been carefully considered, but is not persuasive. First, the Examiner notes that whether Park inventors were aware of void-free layer is irrelevant to the relied upon prior art combination of Park in view of Wilkie. Second, the Examiner repeats (see Office action dated 9/22/2004, page 3-4 bridging paragraph) that since both inventions of Park and Wilkie are directed to opaque multilayer films, they are combinable because they are from the same field of endeavor. While Park's invention uses a voided core to provide opaqueness to the opaque multilayered films, Wilkie's invention is clearly directed to the same intended purpose, i.e., an opaque multilayer film, as set forth above. As such, while substituting Park's opaque voided core layer with Wilkie's nonporous opaque layer changes the physical structure of the core layer, it clearly does not destroy Park's principle of operation, i.e., to obtain an opaque multilayered film, and motivated by the desire to obtain an improved mechanical strength provided by a nonporous opaque layer, as taught by Wilkie, Applicants' argument to the contrary not withstanding. See MPEP 2143.01.

With respect to Applicants' argument "By its plain meaning, a product's "principle of operation" is the underlying manner or method by which it operates or functions. Park's principle of operation is the provision of a void-containing core layer. Thus, modifying Park by reference to Wilkie ... changes Park's principle of operation because it removes Park's void-containing core layer." (Remarks, page 10, third full paragraph), the Examiner notes that Applicants appear to be arguing "void-containing" is a necessarily required element to obtain an "opaque layer". The Examiner repeats (see Office action dated 4/9/2004, page 3) that Wilkie expressly teaches that oriented non-cavitated film layer is advantageous since cavities and voids reduce mechanical strength. As such, it would have been obvious to one of ordinary skill in the art of multilayer opaque film to modify Park's core layer with a lower melting opaque polyolefin layer, such as a layer of high density polyethylene mixed with a suitable amount of opacifying titanium dioxide, as taught by Wilkie, motivated by the desire to obtain a nonporous opaque multilayer film with improved mechanical strength. In other words, "void-containing" is not a necessarily required element to obtain an opaque layer, and Park in view of Wilkie renders the instant invention obvious. Additionally, Applicants' aforementioned argument (i.e., void-containing is required) also appears to be arguing the prior art references individually. In response, the Examiner respectfully asserts that one cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references.

Finally, Applicants' statement "Wilkie's titanium dioxide-containing cold seal receptive layer "is not opaque in and of itself ..."" (Remarks, page 11, first full

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paragraph) also argues the cited references individually, and fails to recognize that the combined teachings of prior references Park in view of Wilkie renders the instantly claimed invention obvious.


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

V Sc
Victor S Chang
Examiner
Art Unit 1771

11/29/2004


TERREL MORRIS
SUPERVISORY PATENT EXAMINER
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